

March 3, 2006

**Warrick County Council
Resolution 2006-02**

Resolution of the County Council of Warrick County, Indiana, authorizing the execution of a Memorandum of Understanding between Warrick County, Indiana, and Alcoa, Incorporated, or its designee, in connection with the issuance and sale by Warrick County, Indiana of exempt facilities revenue bonds and related matters.

Whereas, Warrick County, Indiana a political subdivision of the State of Indiana (the "Issuer"), is authorized and empowered by the provisions of I.C. 36-7-11.9-1 et seq., as amended, and I.C. 36-7-12-1 et seq., as amended (collectively, the "Act"), to issue and sell revenue bonds to finance "pollution control facilities" (as defined in the Act) under the conditions and limitations set forth in the Act; and

Whereas, Alcoa Inc., a Pennsylvania corporation (the "Company"), or one or more of its wholly-owned subsidiaries, or its successors, assigns or designees, intends to acquire and construct certain solid waste disposal and wastewater treatment facilities constituting pollution control facilities (collectively, the "Project") at its aluminum plant, coal handling facilities and related facilities located within the boundaries of Warrick County, Indiana on Highway 66 near Newburgh, Indiana (collectively, the "Plant"); and

Whereas, a Memorandum of Understanding (the "MOU") has been presented to the Issuer under the terms of which the Issuer agrees, subject to the provisions of the MOU, to issue its revenue bonds to finance the acquisition, construction and equipping of the Project, a copy of said MOU being attached to this Resolution as Exhibit A:

NOW, THEREFORE BE IT RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA, that the MOU, substantially in the form attached hereto as Exhibit A, be and the same is hereby authorized to be entered into between the Issuer and the Company and the County Commissioners of Warrick County are hereby authorized and directed to execute the MOU substantially in the form attached hereto as Exhibit A for and on behalf of the Issuer, and the County Auditor is hereby authorized and directed to attest the MOU on behalf of the Issuer.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that the County Commissioners of Warrick County, the County Auditor and the County Attorney be and they are hereby authorized to take such further action as may be necessary to carry out the purposes and intent of the MOU and to issue the County's revenue bonds upon the terms and conditions stated in the MOU.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that this Resolution shall constitute a declaration of "official intent" with respect to any reimbursement of Project costs within the meaning of §1.150-2 of the Federal Income Tax Regulations.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that the obligation of the County shall be limited solely to the good faith effort to consummate the proceedings necessary to issue the revenue bonds, and neither the County Council, the County Commissioners nor their respective agents shall incur any liability whatsoever if for any reason the proposed issuance of the revenue bonds is not consummated.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that this Resolution shall be made available for public inspection at the main administrative office of the County or at the customary location of records of the County that are available to the general public within 30 days after the passage of this Resolution and will remain available for public inspection on a reasonable basis until the date the revenue bonds are issued by the County to reimburse the Company's expenditures.

BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA that all resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

THIS RESOLUTION shall take effect and be in full force from and after its passage by the County Council and all actions of the officers, agents and employees of the County that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed and adopted.

WARRICK COUNTY COUNCIL

By

Gary Meyer, D.D. S. President

By

Raymond McIntyre

By

Robert Addington

By

Raymond Bracher

By

David Hachmeister

By

Greg Richmond

By

Joe Schiffer

ATTEST:

Richard J. Kixmiller
Richard Kixmiller, County Auditor

EXHIBIT A

THIS MEMORANDUM OF UNDERSTANDING (the "MOU") is entered into by and between Warrick County, Indiana, party of the first part (the "Issuer"), and Alcoa, Inc. a Pennsylvania corporation (the "Company"), or one or more of its wholly-owned subsidiaries, or its successors, assigns or designees, party of the second part.

Section 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this MOU are the following:

- (a) The Issuer is a political subdivision of the State of Indiana organized under and pursuant to the laws of the State of Indiana and is authorized and empowered by the provisions of I.C. 36-7-11.9-1 et seq., as amended, and I.C. 36-7-12-1 et seq., as amended (collectively, the "Act"), to issue and sell revenue bonds for the purpose of making the proceeds therefrom available to the Company (or to another entity to be designated by the Company) in order to finance the cost of the acquisition, construction and equipping of certain solid waste disposal and wastewater treatment facilities constituting pollution control facilities (collectively, the "Project") necessary and incidental to the operation of the aluminum plant, power plant, coal handling facilities and related facilities owned by the Company and located within the boundaries of Warrick County, Indiana near Newburgh, Indiana (collectively, the "Plant").
- (b) The Company has informed the Issuer that it expects to pay a portion of the costs of the Project which have been and will be incurred before the issuance of the Issuer's revenue bonds. The Issuer reasonably expects that, to the extent permitted by law, the Company will be reimbursed with the proceeds of such revenue bonds for such expenditures. The maximum principal amount of debt expected to be issued for the Project is currently estimated not to exceed \$300,000,000.
- (c) Subject to due compliance with all requirements of law and to the provisions of Section 4 hereof, the Issuer by virtue of such statutory authority as may now or hereafter be conferred by the Act, as amended, will issue and sell its revenue bonds in an aggregate principal amount sufficient to pay costs of the Project, currently estimated not to exceed \$300,000,000. Such amount may be amended, altered and changed by mutual agreement of the Issuer and the Company as the Project proceeds.
- (d) The Issuer finds that the Project will constitute "pollution control facilities" within the meaning of the Act and the acquisition, construction and equipping of the Project will promote and further the purposes of the Act.
- (e) It is intended that the MOU and the resolution of the County Council authorizing this MOU are to constitute official action with respect to the Project and all of its costs which may now or hereafter qualify for financing by means of the issuance of revenue bonds, the interest on which is exempt from federal income taxes. It is recognized that construction will take a substantial period of time during which the costs and the design of the Project may change and that the law and its interpretation with respect to financeable costs may similarly change and the intent hereof is that all such costs are to be hereby approved.
- (f) The obligation of the Issuer shall be limited solely to the good faith effort to consummate the proceedings necessary to issue the revenue bonds, and neither the County Council, the County Commissioners nor their respective agents shall incur any liability whatsoever if for any reason the proposed issuance of the revenue bonds is not consummated.

Section 2. Undertakings on the Part of the Issuer. Subject to the conditions above stated, the Issuer agrees as follows:

- (a) That it will use its best efforts to authorize the issuance and sale of such revenues bonds, pursuant to the terms of the Act as then in force, in an aggregate principal amount sufficient to pay costs associated with the acquisition, construction and equipping of the Project, currently estimated not to exceed \$300,000,000.
- (b) That it will cooperate with the Company to endeavor to find a purchaser or purchasers for said revenue bonds, and if purchase arrangements satisfactory to the Company can be made, it will adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for the authorization, issuance and sale of said revenue bonds and the acquisition, construction and equipping of the Project, as aforesaid, all as shall be authorized by law and mutually satisfactory to the Issuer and the Company.
- (c) That it will use its best efforts to finance the acquisition, construction and equipping of the Project, by the issuance and sale of revenue bonds and making the proceeds therefrom available to the Company or such other entities as are designed and approved by the Company, such loan to be secured by a pledge and assignment of financing agreement, between the Company (or such other entities as are designated and approved by the Company) and the Issuer, or such other obligations as may be agreed upon between the Issuer and the Company. Said revenue bonds shall be payable by the Issuer solely from amounts received from the Company pursuant to said financing agreement. The revenue bonds shall not in any respect be a general obligation for the Issuer nor shall they be payable in any manner from funds raised by taxation.
- (d) That it will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.
- (e) That it will use its best efforts to obtain allocation of volume cap, if required under the Internal Revenue Code of 1986, as amended, from the State of Indiana for the revenue bonds.

Section 3. Undertakings on the Part of the Company. Subject to the conditions above stated, the Company agrees as follows:

- (a) That it will use all reasonable efforts to find one or more purchasers for the revenue bonds.
- (b) That contemporaneously with the delivery of said revenue bonds by the Issuer, it will enter into appropriate

instruments with the Issuer under the terms of which the Company (or others to be designated and approved by the Company) will obligate itself (or themselves) to pay to the Issuer sums sufficient in the aggregate to pay the principal of and interest and redemption premium, if any, on said revenue bonds as and when the same shall become due and payable, such instruments to contain provisions required by law and such other provisions as shall be mutually acceptable to the Issuer and the Company.

- (c) That it may designate and appoint other entities, corporations, partnerships or joint ventures (which shall be satisfactory to the Issuer) to perform its obligations under this MOU, including without permission Section 3(b) hereof.
- (d) That it will take such further action and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.
- (e) That the Company will pay or cause to be paid from bond proceeds any fees due and payable to the Warrick County Economic Development Commissioner (the "EDC"), the reasonable costs of the Issuer and the EDC and the reasonable fees and costs of attorneys for the Issuer and the EDC incurred by any of them in connection with the proposed issuance of revenue bonds to finance the Project, except to the extent previously paid pursuant to Section 4(b) hereof.

Section 4. General Provisions.

- (a) All commitments of the Issuer under Section 2 hereof and of the Company under Section 3 hereof, are subject to the conditions that the Issuer, its counsel, bond counsel, the Company and its counsel shall have agreed mutually acceptable terms for the revenue bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the contracts and instruments referred to in Section 3 and the proceedings referred to in Sections 2 and 3 hereof.
- (b) The Company agrees that, upon written request, it will promptly reimburse the Issuer for all reasonable and necessary direct out-of-pocket expenses which the Issuer may incur at its request arising from the execution of this MOU and the performance by the Issuer of its obligations hereunder, including the reasonable fees and unpaid out-of-pocket expenses of counsel to the Issuer.
- (c) Any and all obligations of the Company hereunder may be performed on behalf of the Company by its designee and the Project may be owned and operated by the Company or a designee of the Company.

IN WITNESS WHEREOF, the parties hereto have entered into this MOU by their officers thereunto duly authorized of _____ day of March, 2006.

WARRICK COUNTY, INDIANA

By _____
Carl Conner, County Commissioner

By _____
Phil Baxter, County Commissioner

By _____
Don Williams, County Commissioner

ATTEST:

Richard Kixmiller, County Auditor

ALCOA INC.

By _____
Title _____

ATTEST:

By _____
Title _____

STATE OF INDIANA)
)SS
COUNTY OF WARRICK)

I, Richard Kixmiller, hereby certify that I am the duly qualified and acting County Auditor in and for Warrick County, Indiana, and as such official I further certify that the attached is a true and correct copy of Resolution No. 2006-02 as adopted by the County Council of said County on March 2, 2006 and said Resolution relating to a financing for Alcoa Inc. remains in full force and effect and has not been rescinded by the County Council of said County; and that said transcript hereto attached is a true, correct and complete copy of all of the corporate records showing the action taken by the Council regarding said Resolution.

WITNESS my hand and the corporate seal of the County Council of Warrick County, Indiana hereto affixed, this _____ day of March, 2006.

Richard Kixmiller, County Auditor